

AMENDED IN SENATE APRIL 9, 2008

AMENDED IN SENATE MARCH 12, 2008

SENATE BILL

No. 1161

Introduced by Senator Lowenthal

February 6, 2008

An act to amend Sections 25299.24, 25299.54, 25299.57, and 25299.81 of, and to add Section 25299.50.2 to, the Health and Safety Code, relating to petroleum underground storage tanks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Lowenthal. Petroleum underground storage tanks: cleanup.

(1) Existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, requires owners and operators of petroleum underground storage tanks to, among other things, pay a storage fee for each gallon of petroleum placed in the tanks and requires the fees to be deposited in the Underground Storage Tank Cleanup Fund (fund). The act defines the term "underground storage tank" for those purposes as having the same meaning as a tank defined in the provisions regulating the storage of hazardous substances in underground tanks, except as specified with regard to only containing petroleum.

This bill would revise the definition of "underground storage tank" for purposes of the ~~acts~~ *act* to specify that the term also includes certain components that are either directly or indirectly connected to the tank.

(2) The act authorizes the State Water Resources Control Board to expend moneys from the fund, upon appropriation by the Legislature, for various specified purposes, including for payment of claims for the costs of corrective action, for corrective actions undertaken by the board, a California regional water quality control board, or a local agency, and

for the cleanup and oversight of unauthorized releases at abandoned tank sites. The act authorizes the board, a regional board, or a local agency to undertake or contract for corrective action in response to unauthorized releases from tanks that are subject to the act. The act is repealed by its own terms on January 1, 2011, with specified exceptions.

This bill would extend the date of the repeal of the act to January 1, 2016.

(3) The act requires a person applying to the board for a claim of corrective action costs to be in compliance with specified insurance and permit requirements, but authorizes a person to apply to the board without complying with the insurance requirement under specified conditions. The board is prohibited from reimbursing a person whose tanks otherwise meet that exemption for costs attributable to an occurrence that commenced prior to the acquisition of the real property, if ~~the~~ certain conditions exist with regard to the purchase of the real property and the person who owned the site or who owned or operated the tank, except as specified.

This bill would define the term “purchases or otherwise acquires real property” for purpose of this reimbursement prohibition and exception to mean the acquisition of fee title ownership or the acquisition of the lessee’s interest in a ground lease of real property on which one or more underground storage tanks are located, if the lease has a specified term.

(4) The board is required to waive the ~~permitting requirements~~ *requirement* for a claim ~~filed~~ *filed* on or after January 1, 2008 if the board, among other things, determines that the claimant was unaware of the permitting requirement and the claimant complies with that requirement within a reasonable period, not to exceed one year, after becoming aware of the requirement, and the claimant obtains a specified level of financial responsibility.

This bill would additionally require the board to waive the permitting requirements as a condition for payment from the fund for a claimant who filed his or her claim on or after January 1, 2008, and before July 1, 2009, but is not eligible for a waiver of the permit requirement pursuant to the board’s regulations and who did not obtain or apply for a permit, if the board makes certain findings, including that the claimant became the owner or de facto owner of an underground storage tank, as defined, prior to December 22, 1998, the claimant did not and does not operate the tank, and the claimant caused the tank to be removed or closed, as specified. The board would be required to rank all claims

submitted pursuant to this waiver provision in a specified manner of priority class.

(5) The Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) program authorizes the making of loans to eligible persons to assess and respond to hazardous material releases at brownfield sites, as defined.

This bill would establish the *Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount* in the fund and would annually transfer \$10,000,000 for the 2009, 2010, and 2011 calendar years, into that subaccount, for expenditure, upon appropriation by the Legislature. The bill would authorize the funds in that subaccount to be expended for the costs of a response action to remediate the harm caused by petroleum contamination at a site, if the site meets the conditions to be defined as a “brownfield” under the CLEAN program, petroleum contamination is the site’s principal source of contamination, the source of the contamination is, or was, an underground storage tank, and a financially responsible party has not been identified *to pay for remediation at the site*.

The bill would allow any funds that are not expended in a given fiscal year to remain in the subaccount until encumbered and would allow a disbursement in liquidation of an encumbrance to be made before or during the 4 years following the last day the appropriation is available for encumbrance. The bill would also provide that a recipient of a grant awarded under provisions that previously established an Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount, which were repealed on January 1, 2008, *and* whose encumbrance under the grant was not liquidated within a prescribed period, may receive the undisbursed balance of that encumbrance from the subaccount established by this bill consistent with the terms of the grant until June 30, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25299.24 of the Health and Safety Code
- 2 is amended to read:
- 3 25299.24. “Tank,” “underground storage tank,” “underground
- 4 tank system,” and “tank system” have the same meaning as defined

1 in Chapter 6.7 (commencing with Section 25280), except as
2 follows:

3 (a) These terms mean only those tanks that contain only
4 petroleum or, consistent with the federal act, a mixture of petroleum
5 with de minimis quantities of other regulated substances.

6 (b) These terms include all of the following components that
7 are connected either directly or indirectly to the tank:

8 (1) Spill containment structures that are substantially or totally
9 beneath the surface of the ground.

10 (2) Those portions of vent lines, vapor recovery lines, and fill
11 pipes that are beneath the surface of the ground.

12 SEC. 2. Section 25299.50.2 is added to the Health and Safety
13 Code, to read:

14 25299.50.2. (a) The Underground Storage Tank Petroleum
15 Contamination Orphan Site Cleanup Subaccount is hereby
16 established in the Underground Storage Tank Cleanup Fund.

17 (b) The sum of ten million dollars (\$10,000,000) is hereby
18 annually transferred, for the 2009, 2010, and 2011 calendar years,
19 from the fund to the Underground Storage Tank Petroleum
20 Contamination Orphan Site Cleanup Subaccount, for expenditure
21 upon appropriation by the Legislature, for the costs of response
22 actions to remediate the harm caused by a petroleum contamination,
23 including contamination caused by a refined product of petroleum
24 or a petroleum derivative, at a site that meets all of the following
25 conditions:

26 (1) The site meets the conditions described in paragraph (2) of
27 subdivision (a) of Section 25395.20.

28 (2) The petroleum contamination is the principal source of
29 contamination at the site.

30 (3) The source of the petroleum contamination is, or was, an
31 underground storage tank.

32 (4) A financially responsible party has not been identified to
33 pay for remediation at the site.

34 (c) Any funds in the subaccount that are not expended in the
35 2009–10, 2010–11, or 2011–12 fiscal years shall remain in the
36 subaccount until they are encumbered.

37 (d) Notwithstanding Section 16304.1 of the Government Code,
38 a disbursement in liquidation of an encumbrance may be made
39 before or during the four years following the last day the
40 appropriation is available for encumbrance.

1 (e) A recipient of a grant that was awarded pursuant to former
2 Section ~~29299.50.2~~ 25299.50.2, as that section read on December
3 31, 2007, and whose encumbrance under the grant was not
4 liquidated within the time period prescribed in Section 16304.1 of
5 the Government Code, may receive the undisbursed balance of the
6 encumbrance from the subaccount consistent with the terms of the
7 grant until June 30, 2011.

8 SEC. 3. Section 25299.54 of the Health and Safety Code is
9 amended to read:

10 25299.54. (a) Except as provided in subdivisions (b), (c), (d),
11 (e), (g), and (h), an owner or operator, required to perform
12 corrective action pursuant to Section 25296.10, or an owner or
13 operator who, as of January 1, 1988, is required to perform
14 corrective action, who has initiated this action in accordance with
15 Division 7 (commencing with Section 13000) of the Water Code,
16 who is undertaking corrective action in compliance with waste
17 discharge requirements or other orders issued pursuant to Division
18 7 (commencing with Section 13000) of the Water Code, or Chapter
19 6.7 (commencing with Section 25280), may apply to the board for
20 satisfaction of a claim filed pursuant to this article.

21 (b) A person who has failed to comply with Article 3
22 (commencing with Section 25299.30) is ineligible to file a claim
23 pursuant to this section.

24 (c) An owner or operator of an underground storage tank
25 containing petroleum is ineligible to file a claim pursuant to this
26 section if the person meets both of the following conditions:

27 (1) The person knew, before January 1, 1988, of the
28 unauthorized release of petroleum which is the subject of the claim.

29 (2) The person did not initiate, on or before June 30, 1988, any
30 corrective action in accordance with Division 7 (commencing with
31 Section 13000) of the Water Code concerning the release, or the
32 person did not, on or before June 30, 1988, initiate corrective action
33 in accordance with Chapter 6.7 (commencing with Section 25280)
34 or the person did not initiate action on or before June 30, 1988, to
35 come into compliance with waste discharge requirements or other
36 orders issued pursuant to Division 7 (commencing with Section
37 13000) of the Water Code concerning the release.

38 (d) An owner or operator who violates Section 25296.10 or a
39 corrective action order, directive, notification, or approval order
40 issued pursuant to this chapter, Chapter 6.7 (commencing with

1 Section 25280) of this code, or Division 7 (commencing with
2 Section 13000) of the Water Code, is liable for a corrective action
3 cost that results from the owner's or operator's violation and is
4 ineligible to file a claim pursuant to this section.

5 (e) Notwithstanding this chapter, a person who owns a tank
6 located underground that is used to store petroleum may apply to
7 the board for satisfaction of a claim, and the board may pay the
8 claim pursuant to Section 25299.57 without making the finding
9 specified in paragraph (3) of subdivision (d) of Section 25299.57
10 if all of the following apply:

11 (1) The tank meets one of the following requirements:

12 (A) The tank is located at the residence of a person on property
13 used exclusively for residential purposes at the time of discovery
14 of the unauthorized release of petroleum.

15 (B) The tank owner demonstrates that the tank is located on
16 property that, on and after January 1, 1985, is not used for
17 agricultural purposes, the tank is of a type specified in
18 subparagraph (B) of paragraph (1) of subdivision (y) of Section
19 25281, and the petroleum in the tank is used solely for the purposes
20 specified in subparagraph (B) of paragraph (1) of subdivision (y)
21 of Section 25281 on and after January 1, 1985.

22 (2) The tank is not a tank described in subparagraph (A) of
23 paragraph (1) of subdivision (y) of Section 25281 and the tank is
24 not used on or after January 1, 1985, for the purposes specified in
25 that subparagraph.

26 (3) The claimant has complied with Section 25299.31 and the
27 permit requirements of Chapter 6.7 (commencing with Section
28 25280), or the claimant is not subject to the requirements of those
29 provisions.

30 (f) Whenever the board has authorized the prepayment of a
31 claim pursuant to Section 25299.57, and the amount of money
32 available in the fund is insufficient to pay the claim, the owner or
33 operator shall remain obligated to undertake the corrective action
34 in accordance with Section 25296.10.

35 (g) The board shall not reimburse a claimant for any eligible
36 costs for which the claimant has been, or will be, compensated by
37 another person. This subdivision does not affect reimbursement
38 of a claimant from the fund under either of the following
39 circumstances:

1 (1) The claimant has a written contract, other than an insurance
2 contract, with another person that requires the claimant to
3 reimburse the person for payments the person has provided the
4 claimant pending receipt of reimbursement from the fund.

5 (2) An insurer has made payments on behalf of the claimant
6 pursuant to an insurance contract and either of the following
7 applies:

8 (A) The insurance contract explicitly coordinates insurance
9 benefits with the fund and requires the claimant to do both of the
10 following:

11 (i) Maintain the claimant's eligibility for reimbursement of costs
12 pursuant to this chapter by complying with all applicable eligibility
13 requirements.

14 (ii) Reimburse the insurer for costs paid by the insurer pending
15 reimbursement of those costs by the fund.

16 (B) The claimant received a letter of commitment prior to June
17 30, 1999, for the occurrence and the claimant is required to
18 reimburse the insurer for any costs paid by the insurer pending
19 reimbursement of those costs by the fund.

20 (h) (1) Except as provided in paragraph (2), a person who
21 purchases or otherwise acquires real property on which an
22 underground storage tank or tank specified in subdivision (e) is
23 situated shall not be reimbursed by the board for a cost attributable
24 to an occurrence that commenced prior to the acquisition of the
25 real property if both of the following conditions apply:

26 (A) The purchaser or acquirer knew, or in the exercise of
27 reasonable diligence would have discovered, that an underground
28 storage tank or tank specified in subdivision (e) was located on
29 the real property being acquired.

30 (B) A person who owned the site or owned or operated an
31 underground storage tank or tank specified in subdivision (e) at
32 the site during or after the occurrence and prior to acquisition by
33 the purchaser or acquirer would not have been eligible for
34 reimbursement from the fund.

35 (2) Notwithstanding paragraph (1), if the claim is filed on or
36 after January 1, 2003, the board may reimburse the eligible costs
37 claimed by a person who purchases or otherwise acquires real
38 property on which an underground storage tank or tank specified
39 in subdivision (e) is situated, if all of the following conditions
40 apply:

1 (A) The claimant is the owner or operator of the underground
2 storage tank or tank specified in subdivision (e) that had an
3 occurrence that commenced prior to the owner's acquisition of the
4 real property.

5 (B) The claimant satisfies all eligibility requirements, other than
6 those specified in paragraph (1).

7 (C) The claimant is not an affiliate of a person whose act or
8 omission caused or would cause ineligibility for the fund.

9 (3) If the board reimburses a claim pursuant to paragraph (2),
10 a person specified in subparagraph (B) of paragraph (1), other than
11 a person who is ineligible for reimbursement from the fund solely
12 because the property was acquired from another person who was
13 ineligible for reimbursement from the fund, shall be liable for the
14 amount paid from the fund. The Attorney General, upon request
15 of the board, shall bring a civil action to recover the liability
16 imposed under this paragraph. All money recovered by the
17 Attorney General under this paragraph shall be deposited in the
18 fund.

19 (4) The liability established pursuant to paragraph (3) does not
20 limit or supersede liability under any other provision of state or
21 federal law, including common law.

22 (5) For purposes of this subdivision, the following definitions
23 shall apply:

24 (A) "Affiliate" means a person who has one or more of the
25 following relationships with another person:

26 (i) Familial relationship.

27 (ii) Fiduciary relationship.

28 (iii) A relationship of direct or indirect control or shared
29 interests.

30 (B) Affiliates include, but are not limited to, any of the
31 following:

32 (i) Parent corporation and subsidiary.

33 (ii) Subsidiaries that are owned by the same parent corporation.

34 (iii) Business entities involved in a reorganization, as defined
35 in Section 181 of the Corporations Code.

36 (iv) Corporate officer and corporation.

37 (v) Shareholder that owns a controlling block of voting stock
38 and the corporation.

39 (vi) Partner and the partnership.

40 (vii) Member and a limited liability company.

1 (viii) Franchiser and franchisee.

2 (ix) Settlor, trustee, and beneficiary of a trust.

3 (x) Debtor and bankruptcy trustee or debtor-in-possession.

4 (xi) Principal and agent.

5 (C) “Familial relationship” means relationships between family
6 members, including, and limited to, a husband, wife, child,
7 stepchild, parent, grandparent, grandchild, brother, sister,
8 stepbrother, stepsister, stepmother, stepfather, mother-in-law,
9 father-in-law, brother-in-law, sister-in-law, daughter-in-law,
10 son-in-law, and, if related by blood, uncle, aunt, niece, or nephew.

11 (D) “Purchases or otherwise acquires real property” means the
12 acquisition of fee title ownership or the acquisition of the lessee’s
13 interest in a ground lease of real property on which one or more
14 underground storage tanks are located if the lease has an initial
15 original term, including unilateral extension or renewal rights, of
16 not less than 35 years.

17 (i) The Legislature finds and declares that the changes made to
18 subparagraph (A) of paragraph (1) of subdivision (e) by Chapter
19 1290 of the Statutes of 1992 are declaratory of existing law.

20 (j) The Legislature finds and declares that the amendment of
21 subdivisions (a) and (g) by Chapter 328 of the Statutes of 1999 is
22 declaratory of existing law.

23 SEC. 4. Section 25299.57 of the Health and Safety Code is
24 amended to read:

25 25299.57. (a) If the board makes the determination specified
26 in subdivision (d), the board may only pay for the costs of a
27 corrective action that exceed the level of financial responsibility
28 required to be obtained pursuant to Section 25299.32, but not more
29 than one million five hundred thousand dollars (\$1,500,000) for
30 each occurrence. In the case of an owner or operator who, as of
31 January 1, 1988, was required to perform corrective action, who
32 initiated that corrective action in accordance with Division 7
33 (commencing with Section 13000) of the Water Code or Chapter
34 6.7 (commencing with Section 25280), and who is undertaking
35 the corrective action in compliance with waste discharge
36 requirements or other orders issued pursuant to Division 7
37 (commencing with Section 13000) of the Water Code or Chapter
38 6.7 (commencing with Section 25280), the owner or operator may
39 apply to the board for satisfaction of a claim filed pursuant to this
40 article. The board shall notify claimants applying for satisfaction

1 of claims from the fund of eligibility for reimbursement in a prompt
2 and timely manner and that a letter of credit or commitment that
3 will obligate funds for reimbursement shall follow the notice of
4 eligibility as soon thereafter as possible.

5 (b) (1) For claims eligible for reimbursement pursuant to
6 subdivision (c) of Section 25299.55, the claimant shall submit the
7 actual cost of corrective action to the board, which shall either
8 approve or disapprove the costs incurred as reasonable and
9 necessary. At least 15 days before the board proposes to disapprove
10 the reimbursement of corrective action costs that have been
11 incurred on the grounds that the costs were unreasonable or
12 unnecessary, the board shall issue a notice advising the claimant
13 and the lead agency of the proposed disallowance, to allow review
14 and comment.

15 (2) The board shall not reject any actual costs of corrective
16 action in a claim solely on the basis that the invoices submitted
17 fail to sufficiently detail the actual costs incurred, if all of the
18 following apply:

19 (A) Auxiliary documentation is provided that documents to the
20 board's satisfaction that the invoice is for necessary corrective
21 action work.

22 (B) The costs of corrective action work in the claim are
23 reasonably commensurate with similar corrective action work
24 performed during the same time period covered by the invoice for
25 which reimbursement is sought.

26 (C) The invoices include a brief description of the work
27 performed, the date that the work was performed, the vendor, and
28 the amount.

29 (c) (1) For claims eligible for prepayment pursuant to
30 subdivision (c) of Section 25299.55, the claimant shall submit the
31 estimated cost of the corrective action to the board, which shall
32 approve or disapprove the reasonableness of the cost estimate.

33 (2) If the claim is for reimbursement of costs incurred pursuant
34 to a performance-based contract, Article 6.5 (commencing with
35 Section 25299.64) shall apply to that claim.

36 (d) Except as provided in subdivision (j), a claim specified in
37 subdivision (a) may be paid if the board makes all of the following
38 findings:

39 (1) There has been an unauthorized release of petroleum into
40 the environment from an underground storage tank.

1 (2) The claimant is required to undertake or contract for
2 corrective action pursuant to Section 25296.10, or, as of January
3 1, 1988, the claimant has initiated corrective action in accordance
4 with Division 7 (commencing with Section 13000) of the Water
5 Code.

6 (3) The claimant has complied with Section 25299.31.

7 (4) (A) Except as provided in subparagraphs (B), (C), and (F),
8 the claimant has complied with the permit requirements of Chapter
9 6.7 (commencing with Section 25280). A claimant shall obtain a
10 permit required by subdivision (a) of Section 25284 for the
11 underground storage tank that is the subject of the claim when the
12 claimant becomes subject to subdivision (a) of Section 25284 or
13 when the applicable local agency begins issuing permits pursuant
14 to subdivision (a) of Section 25284, whichever occurs later.

15 (B) A claimant who acquires real property on which an
16 underground storage tank is situated and, despite the exercise of
17 reasonable diligence, was unaware of the existence of the
18 underground storage tank when the real property was acquired,
19 has obtained a permit required by subdivision (a) of Section 25284
20 for the underground storage tank that is the subject of the claim
21 within a reasonable period, not to exceed one year, from when the
22 claimant should have become aware of the existence of the
23 underground storage tank, or when the applicable local agency
24 began issuing permits pursuant to Section 25284, whichever occurs
25 later.

26 (C) All claimants who file their claim on or after January 1,
27 2008, and who do not obtain a permit required by subdivision (a)
28 of Section 25284 in accordance with subparagraph (A) or (B) may
29 seek a waiver of the requirement to obtain a permit. The board
30 shall waive the provisions of subparagraphs (A) and (B) as a
31 condition for payment from the fund if the board finds all of the
32 following:

33 (i) The claimant was unaware of the permit requirement, and
34 upon becoming aware of the permit requirement, the claimant
35 complies with either subdivision (a) of Section 25284 or Section
36 25298 and the regulations adopted to implement those sections
37 within a reasonable period, not to exceed one year, from when the
38 claimant became aware of the permit requirement.

1 (ii) Prior to submittal of the application to the fund, the claimant
2 has complied with Section 25299.31 and has obtained and paid
3 for all permits currently required by this paragraph.

4 (iii) Prior to submittal of the application to the fund, the claimant
5 has paid all fees, interest, and penalties imposed pursuant to Article
6 5 (commencing with Section 25299.40) of this code and Part 26
7 (commencing with Section 50101) of Division 2 of the Revenue
8 and Taxation Code for the underground storage tank that is the
9 subject of the claim.

10 (D) (i) A claimant exempted pursuant to subparagraph (C) and
11 who has complied, on or before December 22, 1998, either with
12 subdivision (a) of Section 25284 or Section 25298 and the
13 regulations adopted to implement those sections, shall obtain a
14 level of financial responsibility twice as great as the amount that
15 the claimant is otherwise required to obtain pursuant to subdivision
16 (a) of Section 25299.32, but not less than ten thousand dollars
17 (\$10,000). All other claimants exempted pursuant to subparagraph
18 (C) shall obtain a level of financial responsibility that is four times
19 as great as the amount that the claimant is otherwise required to
20 ~~obtained~~ obtain pursuant to subdivision (a) of Section 25299.32,
21 but not less than twenty thousand dollars (\$20,000).

22 (ii) The board may waive the requirements of clause (i) if the
23 claimant can demonstrate that the conditions specified in clauses
24 (i) to (iii), inclusive, of subparagraph (B) were satisfied prior to
25 the causing of any contamination. That demonstration may be
26 made through a certification issued by the permitting agency based
27 on a site evaluation and tank tests at the time of permit application
28 or in any other manner acceptable to the board.

29 (E) All claimants who file a claim before January 1, 2008, and
30 who are not eligible for a waiver of the permit requirements
31 pursuant to applicable statutes or regulations in effect on the date
32 of the filing of the claim may resubmit a new claim pursuant to
33 subparagraph (C) on or after January 1, 2008. The board shall rank
34 all claims resubmitted pursuant to subparagraph (C) lower than
35 all claims filed before January 1, 2008, within their respective
36 priority classes specified in subdivision (b) of Section 25299.52.

37 (F) The board shall waive the provisions of subparagraph (A)
38 as a condition for payment from the fund for a claimant who filed
39 his or her claim on or after January 1, 2008, and before July 1,
40 2009, but is not eligible for a waiver of the permit requirement

1 pursuant to the regulations adopted by the board in effect on the
2 date of the filing of the claim, and who did not obtain or apply for
3 a permit required by subdivision (a) of Section 25284, if the board
4 finds all of the following:

5 (i) The claim is filed pursuant to paragraph (2) of subdivision
6 (h) of Section 25299.54 and the claim otherwise satisfies the
7 eligibility requirements of that paragraph.

8 (ii) The claimant became the owner or de facto owner of an
9 underground storage tank prior to December 22, 1998.

10 (iii) The claimant did not, and does not, operate the underground
11 storage tank.

12 (iv) Within three years after becoming the owner or de facto
13 owner of the underground storage tank but not after December 22,
14 1998, the claimant caused the underground storage tank to be
15 removed and closed in accordance with applicable law, and
16 commenced no later than December 22, 1998, to perform corrective
17 action pursuant to Section 25296.10 of this code or pursuant to
18 Division 7 (commencing with Section 13000) of the Water Code.

19 (G) The board shall rank all claims submitted pursuant to
20 subparagraph (F) in their respective priority classes specified in
21 subdivision (b) of Section 25299.52 in the order in which the claims
22 are received by the board, but subsequent to any claim filed on a
23 previous date in each of those priority classes.

24 (H) For purposes of clauses (ii) and (iv) of subparagraph (F),
25 “de facto owner of an underground storage tank” means a person
26 who purchases or otherwise acquires real property, as defined in
27 subparagraph (D) of paragraph (5) of subdivision (h) of Section
28 25299.54, and has actual possession of, and control over, an
29 underground storage tank that has been abandoned by its previous
30 owner.

31 (5) The board has approved either the costs incurred for the
32 corrective action pursuant to subdivision (b) or the estimated costs
33 for corrective action pursuant to subdivision (c).

34 (6) The claimant has paid all fees, interest, and penalties imposed
35 pursuant to Article 5 (commencing with Section 29299.40) and
36 Part 26 (commencing with Section 50101) of Division 2 of the
37 Revenue and Taxation Code for the underground storage tank that
38 is the subject of the claim.

1 (e) The board shall provide the claimant, whose cost estimate
2 has been approved, a letter of commitment authorizing payment
3 of the costs from the fund.

4 (f) The claimant may submit a request for partial payment to
5 cover the costs of corrective action performed in stages, as
6 approved by the board.

7 (g) (1) A claimant who submits a claim for payment to the
8 board shall submit multiple bids for prospective costs as prescribed
9 in regulations adopted by the board pursuant to Section 25299.77.

10 (2) A claimant who submits a claim to the board for the payment
11 of professional engineering and geologic work shall submit
12 multiple proposals and fee estimates, as required by the regulations
13 adopted by the board pursuant to Section 25299.77. The claimant's
14 selection of the provider of these services is not required to be
15 based on the lowest estimated fee, if the fee estimate conforms
16 with the range of acceptable costs established by the board.

17 (3) A claimant who submits a claim for payment to the board
18 for remediation construction contracting work shall submit multiple
19 bids, as required in the regulations adopted by the board pursuant
20 to Section 25299.77.

21 (4) Paragraphs (1), (2), and (3) do not apply to a tank owned or
22 operated by a public agency if the prospective costs are for private
23 professional services within the meaning of Chapter 10
24 (commencing with Section 4525) of Division 5 of Title 1 of the
25 Government Code and those services are procured in accordance
26 with the requirements of that chapter.

27 (h) The board shall provide, upon the request of a claimant,
28 assistance to the claimant in the selection of contractors retained
29 by the claimant to conduct reimbursable work related to corrective
30 actions. The board shall develop a summary of expected costs for
31 common corrective actions. This summary of expected costs may
32 be used by claimants as a guide in the selection and supervision
33 of consultants and contractors.

34 (i) The board shall pay, within 60 days from the date of receipt
35 of an invoice of expenditures, all costs specified in the work plan
36 developed pursuant to Section 25296.10, and all costs that are
37 otherwise necessary to comply with an order issued by a local,
38 state, or federal agency.

39 (j) (1) The board shall pay a claim of not more than three
40 thousand dollars (\$3,000) per occurrence for regulatory technical

1 assistance to an owner or operator who is otherwise eligible for
2 reimbursement under this chapter.

3 (2) For the purposes of this subdivision, regulatory technical
4 assistance is limited to assistance from a person, other than the
5 claimant, in the preparation and submission of a claim to the fund.
6 Regulatory technical assistance does not include assistance in
7 connection with proceedings under Section 25296.40, 25299.39.2,
8 or 25299.56 or any action in court.

9 (k) (1) Notwithstanding any other provision of this section, the
10 board shall pay a claim for the costs of corrective action to a person
11 who owns property on which is located a release from a petroleum
12 underground storage tank that has been the subject of a completed
13 corrective action and for which additional corrective action is
14 required because of additionally discovered contamination from
15 the previous release, only if the person who carried out the earlier
16 and completed corrective action was eligible for, and applied for,
17 reimbursement pursuant to subdivision (b), and only to the extent
18 that the amount of reimbursement for the earlier corrective action
19 did not exceed the amount of reimbursement authorized by
20 subdivision (a). Reimbursement to a claimant on a reopened site
21 shall occur when funds are available, and reimbursement
22 commitment shall be made ahead of any new letters of commitment
23 to be issued, as of the date of the reopening of the claim, if funding
24 has occurred on the original claim, in which case funding shall
25 occur at the time it would have occurred under the original claim.

26 (2) For purposes of this subdivision, a corrective action is
27 completed when the local agency or regional board with
28 jurisdiction over the site or the board issues a closure letter pursuant
29 to subdivision (g) of Section 25296.10.

30 SEC. 5. Section 25299.81 of the Health and Safety Code is
31 amended to read:

32 25299.81. (a) Except as provided in subdivisions (b) and (c),
33 this chapter shall remain in effect only until January 1, 2016, and
34 as of that date is repealed, unless a later enacted statute, which is
35 enacted before January 1, 2016, deletes or extends that date.

36 (b) Notwithstanding subdivision (a), Article 1 (commencing
37 with Section 25299.10), Article 2 (commencing with Section
38 25299.11), and Article 4 (commencing with Section 25299.36)
39 shall not be repealed and shall remain in effect on January 1, 2016.

1 (c) The repeal of certain portions of this chapter does not
2 terminate any of the following rights, obligations, or authorities,
3 or any provision necessary to carry out these rights and obligations:

4 (1) The filing and payment of claims against the fund, including
5 the costs specified in subdivisions (c), (e), and (h) of Section
6 25299.51, and claims for commingled plumes, as specified in
7 Article 11 (commencing with Section 25299.90), until the moneys
8 in the fund are exhausted. Upon exhaustion of the fund, any
9 remaining claims shall be invalid.

10 (2) The repayment of loans, outstanding as of January 1, 2016,
11 due and payable to the board.

12 (3) The recovery of moneys reimbursed to a claimant to which
13 the claimant is not entitled, or the resolution of any cost recovery
14 action.

15 (4) The collection of unpaid fees that are imposed pursuant to
16 Article 5 (commencing with Section 25299.40), as that article read
17 on December 31, 2015, or have become due before January 1,
18 2016, including any interest or penalties that accrue before, on, or
19 after January 1, 2016, associated with those unpaid fees.

20 (5) (A) The filing of an application for funds from, and the
21 making of payments from, the Underground Storage Tank
22 Petroleum Contamination Orphan Site Cleanup Subaccount
23 pursuant to Section 25299.50.2, any action for the recovery of
24 moneys paid pursuant to Section 25299.50.2 to which the recipient
25 is not entitled, and the resolution of that cost recovery action.

26 (B) Upon exhaustion of funds in the Underground Storage Tank
27 Petroleum Contamination Orphan Site Cleanup Subaccount, the
28 obligation to make a payment from the subaccount is terminated.

29 (d) The board shall continuously post and update on its *Internet*
30 Web site, but at a minimum, annually on or before September 30,
31 information that describes the status of the fund and shall make
32 recommendations, when appropriate, to improve the efficiency of
33 the program.